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SENSITIVE
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TAGS: [PHUM](#) [PREL](#) [ELAB](#) [RP](#)
SUBJECT: COURT CONVICTS SOLDIER FOR DISAPPEARANCES

REF: MANILA 1706 (RAMPING UP INVESTIGATION AND
PROSECUTION OF LABOR AND OTHER
EXTRAJUDICIAL KILLINGS)

11. (U) SUMMARY: A regional trial court July 18 convicted an Armed Forces of the Philippines (AFP) corporal for abduction and illegal detention of six civilians who disappeared in October 2000, sentencing the defendant to a minimum of 54 years in prison. In the absence of physical evidence, including the victims' bodies, the new testimony of an army sergeant was pivotal in securing the guilty verdict. This case is remarkable because convictions in disappearance cases are rare. Prosecutors in these cases face a requirement to have evidence of kidnapping or killing, while witnesses may be unwilling to testify and administrative delays obstruct a trial's progress. This most recent conviction shows how perseverance of the victims' families and testimony from a key witness, even several years after a trial has begun, can still contribute to a successful prosecution. This is the first-ever court victory for the NGO involved in the case, which is working on 15 other unresolved disappearance cases. While the case exemplifies the shortcomings of the justice system, it also shows that the system can deliver convictions in some of the most difficult cases. END SUMMARY.

PROMPT ACTION BY HUMAN RIGHTS COMMISSION

12. (U) The case stems from the October 2000 disappearance of six civilians in Agusan del Sur, Mindanao, following threats made by Armed Forces of the Philippines (AFP) Corporal Rodrigo Billones of the 62nd Infantry Battalion. Less than two weeks after the disappearances, the Commission on Human Rights (CHR) assisted the victims' families by issuing subpoenas for Billones. When he failed to appear, CHR issued an additional subpoena to the commanding officer and sent copies of the complaint to the AFP Chief of Staff for administrative sanctioning. Victims' families then filed separate complaints and, after a preliminary investigation in December, 2000, the case prosecutor filed charges of abduction and serious illegal detention with the court in Agusan del Sur. In January 2001, the court issued an arrest warrant for Billones, who finally appeared in court in June that year and was held in detention from then on.

STILL A LENGTHY TRIAL

13. (U) The trial of Billones took just under eight years to conclude because of the difficulty of obtaining witness testimony and because of pervasive inefficiencies in the Philippine judicial system, which allows for discontinuous trials. Administrative obstacles in this case included 39 hearing postponements, various defense tactics such as the

filing of motions, and the periodic assignment of new judges to the court. However, in a clear break for the case, a former AFP sergeant submitted an affidavit to the CHR that he saw the six victims in an army camp and that they were tortured and killed by AFP members, including a colonel and a lieutenant who had both served in the 62nd Infantry Battalion with Billones. The former sergeant finally testified against Billones in November 2007 paving the way for last week's guilty verdict. The accused was convicted and fined damages for being an accomplice to the disappearances, and was sentenced to 9 to 15 years in prison for each of the six complaints -- a minimum of 54 years, tantamount to a life sentence. In the decision, the regional trial court judge also instructed the Department of Justice to conduct a separate inquiry on the criminal liability of the two other AFP officials allegedly involved in the disappearances.

NGO FOR THE DISAPPEARED HAS RARE VICTORY

14. (U) In this case, the attorney hired by the victims' families was a member of the NGO Families of Victims of Involuntary Disappearances (FIND). He served as both legal counsel for the families and as a "private prosecutor," deputized by the public prosecutor to move the case through the judicial process, a format common in other kinds of criminal cases, such as trafficking. Of the 16 disappearance cases on which FIND is working, this is the first and only case that the NGO has seen resolved, and without the testimony of the former army sergeant the case might have been dismissed. Many of FIND's cases on disappearances from the 1990s are still in court, although the NGO told Post they

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thought this case was resolved relatively quickly. Since convictions in disappearance trials are rare, FIND calls this a "breakthrough" victory that gives them hope for other disappearance cases.

COMMENT

15. (SBU) This case is significant because it shows that the Philippine government, when faced with new information, is willing to convict army officials in disappearance cases whose trails ran cold long ago. Even more importantly, this case succeeded despite the odds. It sat for six years with no new leads and, as a disappearance case, did not benefit from the involvement of the Philippine National Police's Task Force USIG, which investigates extrajudicial killings. USIG does not investigate disappearance cases and in addition only investigates cases filed since the beginning of President Arroyo's administration in 2001. While the end result illustrates that the government is serious about solving disappearances, some persistent obstacles in the justice system remain, including administrative delays, overburdened prosecutors, and witness reticence. Still, the verdict in such a difficult and lengthy case as this shows that the Philippines justice system is ultimately capable of delivering convictions.

KENNEY